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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,489	02/12/2002	Brian N. Tufte	1076.1101108	9019

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EXAMINER

NEGRON, ISMAEL

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 07/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/075,489	Applicant(s) TUFTE, BRIAN N.	
	Examiner Ismael Negron	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 18-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 18-21 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-17, drawn to illumination devices with elongated light sources, classified in class 362, subclass 217.
  - II. Claims 18-21, drawn to illuminated amusement devices, classified in class 446, subclass 485.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are separate inventions as they are directed to structures, which perform different functions and have different mode modes of operation.
3. During a telephone conversation with Brian N. Tufte on June 16, 2003 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-17. Affirmation of this election must be made by applicant in replying to this Office action. Claims 18-21 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Title***

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: **Elongated Illumination Device.**

***Abstract***

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;

- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

5. The abstract of the disclosure is objected to because it fails to distinctively describe the claimed invention, as defined by the claims. The abstract fails to describe that which the applicant considers the patentable structure recited in the claims. In addition, the abstract describe embodiments which, while described in the instant disclosure, are not included in the claimed subject matter. Correction is required. See MPEP § 608.01(b).

### ***Drawings***

6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “**454**” has been used to designate both “*light source*” (page 24, line 5) and “*elongated light source*” (page 24, line 15). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The applicant is advised that the reference characters must be properly applied, with no single reference character being used for two different parts or for a given part and a modification of such part. See MPEP §608.01(g). Correction is required.

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: **552**. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

8. Applicant is further advised that this action only exemplifies the objections to the drawings, applicant's cooperation is requested in correcting all the occurrences of the cited, or any other errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 1-4, 10, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Koch et al. (U.S. Pat. No. 6,612,848).

Koch et al. discloses an illumination device having :

- **an elongated light source**, Figure 2, reference number 20;
- **a housing**, Figure 2, reference number 21:
- **the housing having an elongated cavity extending along at least a portion of the housing**, column 1, lines 45-48;
- **the cavity being for receiving the elongated light source**, column 1, lines 48-50;
- **the cavity being at least partially defined by a first material**, Figure 2, reference numbers 22 and 23;
- **the first material being at least partially transparent**, column 1, lines 45-48;
- **the first material extending to an outer surface of the housing**, Figure 2;
- **the housing including a second material**, Figure 2, reference number 24;
- **the second material being substantially non-transparent**, column 1, lines 50-52;
- **the second material being at least partially reflectiv** , inherent;

- **the cavity being a closed cavity**, Figure 2; and
- **the illumination device being used in a household kitchen appliance**, column 1, lines 29-33.

10. Claims 1, 8, 9, 11-13, 16 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Chien (U.S. Pat. No. 6,270,229).

Chien discloses an illumination device having :

- **an elongated light source**, Figures 2A-2G, reference number 43;
- **a housing**, Figures 2A-2G, reference numbers 44-50;
- **the housing having an elongated cavity extending along at least a portion of the housing for receiving the elongated light source**, column 8, lines 54-65;
- **the cavity being at least partially defined by a first material**, as shown in Figures 2A-2G;
- **the first material being at least partially transparent**, column 10, lines 7-10;
- **the first material extending to an outer surface of the housing**, column 10, lines 7-10;
- **the illumination device being located in an appliance**, column 9, lines 1-11;
- **the appliance producing one or more signals**, column 10, lines 10-17;



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- **a controller for controlling the illumination of the light source in accordance with the signals**, column 10-lines 10-17;
- **the light source being an electro-luminescent wire**, column 6, lines 21-26;
- **the cavity being an open cavity**, Figures 2B-2E and 2G;
- **the appliance being a portable music producing device**, Figures 3, 3A-3C, 4, 6, 9 and 10;
- **the appliance being a stereo component**, Figures 3, 3A, 6, 9 and 10;
- **the appliance being a communications device**, Figures 8-11;  
and
- **the appliance being a telephone**, Figure 8.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koch et al. (U.S. Pat. No. 6,612,848) in view of Luckiesh (U.S. Pat. No. 2,339,085).

Koch et al. discloses an illumination device having:

- **an elongated light source**, Figure 2, reference number 20;
- **a housing**, Figure 2, reference number 21:
- **the housing having an elongated cavity extending along at least a portion of the housing**, column 1, lines 45-48;
- **the cavity being for receiving the elongated light source**, column 1, lines 48-50;
- **the cavity being at least partially defined by a first material**, Figure 2, reference numbers 22 and 23;
- **the first material being at least partially transparent**, column 1, lines 45-48;
- **the first material extending to an outer surface of the housing**, Figure 2;
- **the housing including a second material**, Figure 2, reference number 24;
- **the second material being substantially non-transparent**, column 1, lines 50-52;
- **the second material being at least partially reflective**, inherent; and
- **the cavity being a closed cavity**, Figure 2.

Koch et al. discloses all the limitations of the claims, except the second material being parabolic in shape to reflect light toward the outer surface of the housing.

Luckiesh discloses an illumination device for a refrigerator, such device having :

- **an elongated light source**, Figure 2, reference number 15;
- **a housing for receiving the elongated light source**, Figure 2, reference number 18;
- **the housing including a reflector for reflecting light toward the outside of the housing** Figure 2, reference number 16;
- **the reflector being parabolic in shape**, column 2, lines 20-24.

It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to shape the second material of Koch et al. as the parabolic reflector of Luckiesh to increase the efficiency of the illumination device as taught by Luckiesh.

In addition, the Examiner takes Official Notice that the use of reflectors and lenses, is old and well known in the art. Such reflectors and lenses are generally used to collect and redirect light from a light source to a desired target of illumination, thereby increasing the efficiency of such illumination devices.

#### ***Relevant Prior Art***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Chien** (U.S. Pats. No. 5,469,342, No. 5,475,574, No. 5,611,621, No. 5,746,501, No. 5,871,269, No. 6,082,867 and No. 6,179,431), **Chien et al.** (U.S. Pat. No.

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5,570,945) and **Fieldman et al.** (U.S. Pat. 5,917,288) disclose a diverse plurality of devices featuring electro-luminescent light sources.

**Ehrenfreund** (U.S. Pat. No. 2,930,885), **Reeder, Jr.** (U.S. Pat. No. 3,675,527), **Amstutz et al.** (U.S. Pat. No. 4,955,044) and **Fjaestad et al.** (U.S. Pat. No. 5,873,646) disclose a variety of household appliances featuring elongated illumination devices.

**Bowker** (U.S. Pat. No. 6,033,085) and **Ruh** (U.S. Pat. No. 6,113,246) disclose elongated illumination devices having elongated housings with opaque and transparent portions.


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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negron whose telephone number is (703) 308-6086. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached on (703) 305-4939. The facsimile machine number for the Art Group is (703) 308-7382.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.



ALAN CARIASO  
PRIMARY EXAMINER

Inr

June 28, 2003